

1 **WO**

2
3
4
5
6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 Michael Dobbs,

10 Plaintiff,

11 v.

12 Commissioner of Social Security
13 Administration,

14 Defendant.

No. CV-22-00384-TUC-RCC

ORDER

15 On August 25, 2022, Plaintiff filed a Complaint and Application to Proceed In
16 Forma Pauperis ("IFP Application"). (Docs. 1–2.) The matter was assigned to the
17 Honorable D. Thomas Ferraro. (Doc. 4.) The party then elected assignment to the District
18 Court (Doc. 7) and the matter was reassigned to this Court (Doc. 8).

19 On August 26, 2022, the Magistrate Judge issued a Report and Recommendation
20 (R&R) recommending that this Court deny the IFP Application because Plaintiff's
21 application "does not reflect expenses beyond his and his spouses' joint monthly income."
22 (Doc. 9 at 2.) Plaintiff then filed a written objection to the Magistrate Judge's R&R
23 clarifying that his monthly expenses moving forward do exceed the sum total of his
24 income and his spouse's newly-reduced income. (Doc. 10 at 1–2.)

25 When a party objects, the District Court must “determine *de novo* any part of the
26 magistrate judge’s disposition that has been properly objected to. The district judge may
27 accept, reject, or modify the recommended disposition; receive further evidence; or return
28 the matter to the magistrate judge with instructions.” Fed. R. Civ. P. 72(b)(3); *see also* 28

1 U.S.C. § 636(b)(1).

2 Here, the Court has reviewed Plaintiff's Complaint and IFP Application as well as
 3 the Magistrate Judge's R&R and Plaintiff's Objection. (Docs. 1–2, 9–10.) In light of
 4 Plaintiff's clarification in his Objection to the Magistrate Judge's R&R, the Court finds
 5 that Plaintiff has shown he is unable to pay the fees without hardship as required by 28
 6 U.S.C. § 1915(a). As the Magistrate Judge noted, "an applicant need not 'be absolutely
 7 destitute to enjoy the benefit of the statute . . . [or to face spending] the last dollar they
 8 have or can get, and thus make themselves and their dependents wholly destitute' to
 9 proceed with their claim." (Doc. 9 at 2 (quoting *Adkins v. E.I. DuPont de Nemours & Co.*,
 10 335 U.S. 331, 339 (1948)).) With his spouse's newly-reduced income, Plaintiff's monthly
 11 expenses of \$4,649.46 exceed their total gross income \$4,632.00. (Doc. 10 at 2.) Neither
 12 their combined monthly income, nor Plaintiff's savings of \$240.00, are sufficient to cover
 13 the \$402 filing fee. (*Id.*)

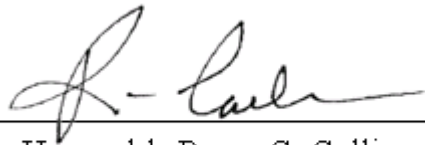
14 Accordingly, the Court declines to adopt the Magistrate Judge's Report and
 15 Recommendation denying Plaintiff's IFP Application. **IT IS ORDERED** that Plaintiff's
 16 IFP Application is **GRANTED**. (Doc. 2.)

17 **IT IS FURTHER ORDERED** this case, reassigned to the Honorable Raner C.
 18 Collins, is hereby referred to Magistrate Judge D. Thomas Ferraro for all pretrial
 19 proceedings and a report and recommendation in accordance with 28 U.S.C. § 636(b)(1),
 20 Fed. R. Civ. P. 72, and 72.2 of the Rules of Practice of the United States District Court
 21 for the District of Arizona.

22 All future filings in this case shall be designated:

23 **CV-22-00384-TUC-RCC (DTF).**

24 Dated this 30th day of August, 2022.

25
 26 

27 Honorable Raner C. Collins
 28 Senior United States District Judge